

Below is an Order of the Court.



PETER C. MCKITTRICK
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:)	
PETER SZANTO,)	Bankruptcy Case No.
)	16-33185-pcm11
Debtor.)	
_____)	
PETER SZANTO,)	Adversary No. 16-3114-pcm
)	
Plaintiff,)	ORDER DENYING MOTION FOR ENTRY
)	OF DEFAULT
v.)	
EVYE SZANTO, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff moves for entry of default against all defendants for failure to timely file responsive pleadings.

Plaintiff filed his complaint on September 21, 2016. The summons was issued on September 22, 2016. It required filing of an answer within 30 days of issuance of the summons, in accordance with Fed. R. Bankr. P. 7012(a). Thus, defendants were required to answer no later than October

1 24, 2016 (the thirtieth day, October 22, fell on a Saturday, so the
2 period ended on Monday, October 24). See Fed. R. Bankr. P.
3 9006(a)(1)(C).

4 On October 21, 2016, before the deadline for filing an answer had
5 expired, defendants filed an ex parte Motion for Extension of Time,
6 requesting an additional 45 days to file their answers. The court
7 granted the extension. Therefore, the time for defendants to file their
8 answers has been extended, and they are not in default.

9 Plaintiff argues that the motion for extension of time was improper
10 because defendants did not properly serve him. The certificate of
11 service attached to the motion indicates that the "Notice of Electronic
12 Filing [was] electronically mailed to Plaintiff." Plaintiff correctly
13 points out that he is not an ECF Participant. Therefore, any required
14 notice must be served on plaintiff by serving a paper copy of the filed
15 document. See LBR 7005-1(b)(1). Plaintiff may consent in writing to
16 receiving service electronically. Fed. R. Bankr. P. 7005; Fed. R. Civ.
17 P. 5(b)(2)(E). This is different from notice to an ECF Participant. See
18 LBR 5005-4. Plaintiff has not filed a written consent to receiving
19 service electronically.

20 Written motions are required to be served on every party, "except
21 one that may be heard ex parte[.]" Fed. R. Bankr. P. 7005; Fed. R. Civ.
22 P. 5(a)(1)(D). Fed. R. Bankr. P. 9006(b)(1) allows the court to grant an
23 extension of time ex parte (with exceptions not relevant here).
24 Therefore, defendants' failure to serve plaintiff with a paper copy of
25 the motion for extension of time does not affect the granted extension of
26 time.

1 Defendants are not in default. Therefore,

2 IT IS HEREBY ORDERED that plaintiff's Motion for Entry of Default is
3 DENIED.

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5 cc: Peter Szanto
6 Christopher N. Coyle
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